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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,152	12/05/2003	Joseph William Lowry	AN18D1	1020

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EXAMINER

LUGO, CARLOS

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/729,152

Applicant(s)

LOWRY ET AL.

Examiner

Carlos Lugo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-30, 32-42, 45 and 46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-30, 32-42, 45 and 46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 September 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to applicant's request for reconsideration filed on December 2, 2004.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 21-25,28-30,32-36,39-42,45 and 46 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,447,005 to Giannuzzi in view of US Pat No 5,367,751 to De Witt.

Regarding claims 21,32 and 42, Giannuzzi discloses a spring fastener comprising a substantially flat head portion (10) comprising a first hole (11) and at least a lower side (10a and 10b).

The spring fastener further comprises a neck (12 and 13) having an opening and two side neck portions. The neck extends from the lower side of the substantially flat head portion at a substantially right angle with respect to the substantially flat head portion.

The spring fastener further comprises two substantially flat legs (19 and 20) extending from the neck. Each leg has inner surfaces that are at an initial proximity with each other. The legs are expandable in opposite directions upon insertion through the first hole of an expansion member (23 and 24), thus bringing the

expansion member to a contact region of the legs. Each leg also has side leg portions.

The spring fastener further comprises a funnel configuration (14) in the vicinity of the contact region.

And the spring fastener further comprises barbs (15 and 17) having a front point and an origin.

However, Giannuzzi fails to disclose that the barbs comprise a proximal barb section starting from at the origin and being directed outwardly away from the side neck portion and the side leg portion respectively and a distal barb section ending at the front point and being directed inwardly toward the side neck portion and the side leg portion respectively regardless is the fastener is or not in an expandable position and also that between the proximal barb section and the barb distal end is formed an angle.

DeWitt teaches that it is well known in the art to have a barb (42) that includes a proximal barb section starting from at the origin and being directed outwardly away from a side neck portion (32) and a side leg portion (the lower section of 32 below 36) respectively and a distal barb section ending at the front point and being directed inwardly toward the side neck portion and the side leg portion respectively, regardless is the fastener is or not in an expandable position. Also DeWitt teaches that between the proximal barb section and the barb distal end is formed an angle.

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to have an angle between a proximal section and a distal end

of a barb, as taught by DeWitt, into a device as described by Giannuzzi, in order to guide and secure the fastener.

As to claims 22 and 33, Giannuzzi discloses that the head portion of the fastener comprises an upper side.

As to claims 23 and 34, Giannuzzi discloses that the head portion of the fastener has a single side corresponding to the lower side (Figure 7).

As to claims 24 and 35, Giannuzzi discloses that the first hole is substantially round.

As to claims 25 and 36, Giannuzzi discloses that the hole is comprises an oblong opening (Figure 4).

As to claims 28-30 and 39-41, Giannuzzi discloses that the first hole (11) is engageable to the expansion member (23 and 24).

As to claims 45 and 46, DeWitt teaches is known in the art to have a similar spring fastener used in a vehicle.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the fastener in a vehicle, as taught by DeWitt, into a device as described by Giannuzzi, because the recitation where is going to be applied the fastener does not affect the mechanism of it. Furthermore, the applicant is reminded that a recitation with respect to the manner in which an apparatus be intended to be employed does not impose any structural limitation upon the claimed apparatus, which differentiates it from a prior art reference disclosing the structural limitations of the claim.

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4. **Claims 26,27,37 and 38 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,447,005 to Giannuzzi in view of US Pat No 5,367,751 to De Witt, as applied to claims 21 and 32 above, and further in view of US Pat No 6,379,092 to Patel et al (Patel).

Giannuzzi, as modified by DeWitt, fails to disclose that the fastener comprises an elastic body molded at least under the at least lower side of the head of the fastener.

Patel teaches that is known in the art to have a molded elastic body (7).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a molded elastic body, as taught by Patel, into a device as described by Giannuzzi, as modified by DeWitt, in order to give a sealing protection against the environment where the fastener is used.

Response to Arguments

5. Applicant's arguments filed on December 2, 2004 have been fully considered but they are not persuasive.

Regarding applicant's arguments that Giannuzzi fails to disclose that the barbs have an origin at a region selected from the side neck portion and the side leg portion (Page 3 Line 27), Giannuzzi clearly illustrates that the barbs 15 and 17 has an origin at a region of selected from the side neck portion and the side leg portion (Figures 5 and 6).

As to applicant's arguments that DeWitt fails to disclose that the barbs have an origin at a region selected from the side neck portion and the side leg portion (**Page**

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4 Line 8), DeWitt does not requires to show this limitation because Giannuzzi already teaches this limitation. DeWitt is only used to show that it is well known in the art to have a barb divided in two portions having an angular structure.

As to applicant's arguments that it would not be obvious to combine the teachings of DeWitt to modified the device as described by Giannuzzi (Page 4 Line 16), since the current specification and/or claims does not provide any reason for having the barbs with an angle between the proximal barb section and the barb distal, the limitation will be considered as a design consideration. Therefore, It would have been obvious to one of the ordinary skill in the art at the time the invention was made to have an angle between a proximal section and a distal end of a barb, as taught by DeWitt, into a device as described by Giannuzzi, in order to guide and secure the fastener.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the

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mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

C.L.
Carlos Lugo
AU 3676

February 4, 2005



DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600